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CONGRESSIONAL TESTIMONY
SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS

By Thomas Fote for
Jersey Coast Anglers Association & New Jersey Federation of Sportsmen's Clubs

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My name is Thomas Fote. I am here today representing the Jersey Coast Anglers Association and the New Jersey State Federation of Sportsmen's Clubs. These two organizations are comprised of 150,000 concerned sportsmen and women throughout New Jersey. I would like to thank the Chairman, Congressman Gilchrest and this committee for this opportunity to testify on this important issue. I would especially like to thank Congressman Frank Pallone and Congressman Jim Saxton for all their hard work for the citizens of New Jersey.

I have testified before this committee on many fisheries management issues. However, data management is certainly one of the most important topics. Most of what takes place in fisheries management is based on data. Data determines the stock assessment, the size of quotas and the rebuilding period. Without data we can't manage fisheries. The quality of fisheries management decisions is directly tied to the quality and accuracy of the data. The data we need does not come cheaply. As the federal and state demands on fisheries management increase, particularly in the area of quota management, the need for quality data continues to increase and so does the cost. When I first got involved in fisheries management, there were quotas on only four or five species on the East coast. Now almost every species managed at the state or federal level is based on quota management. Quota management is data intensive. To get good data you must have the proper systems in place to collect and quantify this data. It also takes a lot more money than we have in the present system

The systems we are using were not designed for Quota or Total Allowable Catch (TAC) management. We are trying to use tools like the Marine Recreational Fisheries Statistical Survey (MRFSS) to set up state-by-state quotas for recreational fishing. The National Marine Fisheries Service (NMFS) designed (MRFSS) to

show trends, not to give real time information and produce data good enough for quota management. . The weaknesses of the MRFSS are the confidence levels and the lag time. The number of intercepts that are done in each state varies greatly. Some states collect enough data to make the data slightly more reliable. Other states have sample sizes that are so small for specific species that a couple of outliers can totally skew the data. These results do not accurately reflect what is happening in the state. In the early 90's, I remember a discussion at a Striped Bass Board Meeting. The director from Maine insinuated that New Jersey fishermen were baby killers since we were fishing at 28inch size fish and they were fishing at 34inch striped bass. One of the scientists present wanted to have some fun with Maine and gave me the MRFSS and indicated which statistics applied. I turned to the director from Maine and said, "What difference does it make what size limit you have? What really matters is the size of the fish landed." With this I pointed out that according to MRFSS, the average size fish landed in New Jersey was about 11 ½ pounds or about 33 inches long. In Maine, the MRFSS indicated the average size fish landed was 2 ½ pounds. Either Maine's anglers were catching the skinniest striped bass in the world or they were all poaching. With this the director from Maine demanded a copy of the MRFSS and discovered that the statistics from Maine were based on only 2 intercepts of illegal fish. The result was his demand that the NMFS correct these statistics for the next year. The following year, based on only a few intercepts again, Maine's statistics showed that size rose to 3 ½ pounds average striped bass catch. Still making no sense. That exchange made me realize how vulnerable the MRFSS was and remains. We have continued to add more intercepts, especially in New Jersey. But the confidence level is still not of sufficient reliability to use the statistics for fisheries management decisions. A couple of million dollars will not fix the MRFSS. It is possible that many millions of dollars will fix the confidence levels. However, lag time will remain a significant issue. We are currently managing this year's fishery with last year's data. It is impossible using the present system to develop midseason corrections. We may need to revamp the entire system, rather than simply trying to fix the existing MRFSS. Remember, this system was designed to show trends, and was not intended for use in quota management.

Everyone is demanding a more accurate count of the number of recreational anglers and the fish they are catching. As we get better data, we are confronting new problems. I believe we have been underestimating the number of recreational anglers and the number of fish they are catching. This also means we have been underestimating the size of the available stocks of species that have a major recreational catch. The virtual population analysis (VPA) uses catch figures and release figures in estimating the size of the stocks. What happens if a state starts adding intercepts? Or what happens if a state begins doing intercepts at night? I believe that we will discover that a state has more anglers making more trips and catching more fish. This would not reflect a change in fishing behaviors or overall catch, just a change in actual reporting. The management tools we presently use have no way to address this potential change. What will show up statistically will be more anglers entering the fishery, making more trips and catching more fish. This will erroneously indicate possible overfishing and lead to more restrictive management rules for the following year. This is what I think happened in New York regarding the summer flounder, scup and seabass fisheries.

New York was required to make a 48% reduction in summer flounder TAC and a 55% reduction in the scup fishery TAC. After a careful review of the data available, I believe that New York was treated unfairly. I think this is partially due to issues discussed in the previous paragraph. I was born and grew up in Brooklyn. I fished the North and South Shores of Long Island from one end to the other. When I moved to New Jersey, I was amazed to find that we usually counted double and sometimes triple the number of anglers that were counted in New York. I have always been interested in the trends from the MRFSS for both New York and New Jersey. The trends were generally similar. This makes sense since we share the

same weather, the same fishing seasons and often the same waters. I will use summer flounder catches in New York and New Jersey as an example. According to the MRFSS, for about 20 years New York averaged between 400,000 and 600,000 participants. During that same period, New Jersey has ranged from 1.5 million to 800,000. In 2001, MRFSS indicated New Jersey had 1.3 million participants. New York had over 700,000. Although that was not an all time high for New Jersey, it was for New York. I wish I could share the 2002 figures but NMFS gave the contract for 2002 to the lowest bidder, fired the contractor after 6 months and then extrapolated figures from previous data to arrive at figures for 2002. They failed to tell ASMFC or the states about this problem and allowed management decisions to be made using this bizarre data. I have included more details in the attached article from the JCAA Newspaper. Given this problem, we really cannot use the faulty data from 2002. In 2003, the MRFSS showed New Jersey had 1, 054,000 participants. This decrease in 2003 may represent a legitimate trend in New Jersey due to weather and changes in fishing conditions. In 2001, we had excellent conditions. The drought allowed fishing almost every day. The winter was mild and we were able to fish comfortably through January 2002. In 2003 we had a rainy spring, lousy early fishing and we were freezing in November. A drop of about 250,000 participants makes sense. The total number of trips dropped by about 800,000. What happened in New York? In 2001, New York had its highest participation level in 20 years. In 2003, sharing our weather and fishing conditions, we would expect to see a decrease. Instead, MRFSS reported a huge increase to over 900,000 participants, the highest level ever recorded in New York. Perhaps bad weather and lousy fishing is attractive to New Yorkers. Or the data was horrible. Or the data was finally more accurate and the previous 21 years were inaccurate. The ASMFC had no choice but to interpret the data as a huge increase in New York. They were unable to even consider that it was the previous data that was inaccurate. This led to a significant decrease in the summer flounder TAC for New York for 2004 and will have a devastating impact on New York's recreational fishing industry and all the ancillary businesses. Because the summer flounder fishery is such an important one for New York, the estimates are a loss of tens of millions of dollars to the New York economy. New York is currently at 3 fish, 17 inches and a season from May 8th to September 6th. The irony of New York's draconian regulations is this is only a 20% reduction and according to the tables they are out of compliance since New York needs to take a 48% reduction. A letter was sent by ASMFC on June 15 to the Secretary of Commerce informing him of that and asking him to take action. I am not sure what will happen.

I'm from New Jersey. Why should I be worried about this? Most people feel this is strictly New York's problem. In addition to my concerns about using faulty data to make management decisions, this will also have an impact on New Jersey. I never thought I would hear charter boat captains from New Jersey talking about their concerns if tens of thousands of New Yorkers begin fishing in New Jersey waters. Our bag limit of 8 fish, 16 ½ inches and a season from May 8th to October 8th will be attractive to any New Yorker within reasonable traveling distance. New York is currently at 3 fish, 17 inches and a season from May 8th to September 8th. Our regulations were based on our historical catch, not with consideration of a significant influx of New York anglers. This could have devastating impact on our 2004 statistics and on our regulations for 2005. We could go over TAC even after taking the most conservative path according to the tables we use to calculate seasons. What a hell of a way to run a system! I could discuss many other data gathering strategies including the Large Pelagic Survey but the message would be the same. You need only look at what happened in 2003 and 2004 with bluefin tuna to confirm this.

The Atlantic States Marine Fisheries Commission and the National Marine Fisheries Service are trying to manage the recreational catch effectively with the tools available. It is not their fault that the tools they are using were not designed for the task. The current tools were designed to establish trends for the recreational fishing industry as cheaply as possible. We are requiring them to use data that is not appropriate for the

task. It is no wonder that the decisions made using this data create more problems than they solve. In the article I have included, Menakhem Ben-Yami states, "Fisheries management is all about people. People are all it can manage, and people are those who either enjoy or suffer from its consequences, including depletion of fish stocks. Therefore, it cannot be feasible if it is perceived by fishing people as erroneous, wrong, unjust, etc. This is one more reason for fisheries management not working." I absolutely believe this is true. ASMFC and NMFS have been working on the Atlantic Coast Cooperative Statistical Program (ACCSP) to design and implement a better system for compiling fisheries catch data for both recreational and commercial fishing. They signed an agreement a number of years ago and are making some progress with this task. But the demands for fisheries management are increasing more quickly than the new system is being developed and implemented.

The other problem we face is stock assessment. Because we cannot physically count every fish in the ocean, we rely on modeling to get an estimation of the stocks. My experience with these models is that they are based on assumptions that are very conservative. When you begin to layer one conservative assumption on another, the resulting model is extremely conservative. This is great when you are rebuilding stocks. It is necessary to take a very precautionary approach when stocks are rebuilding to guarantee success. However, I believe once the stocks are rebuilt or are well on the way, these models can result in a significant underestimation of the existing stocks. Summer flounder is a good example. From 1994, when the stocks were in bad shape to 2004 when the stocks are well rebuilt, the number of fish landed has remained relatively stable. The size of the fish has risen dramatically. Our original goal was more 14inch fish and that remains in the plan. This allows the fish to spawn once or twice. To keep the recreational sector within its TAC, we have greatly increased the size and lowered the bag limit. Some states are currently up to 17 ½ inches and a 3 fish bag limit. This means we have dramatically increased the quota but the anglers are taking home the same amount of fish they were 10 years ago. This makes no sense. To further complicate the stock assessment problem, we are using tools that were designed to survey halibut for the management of numerous species. We know this is not the best tool to estimate the stocks but it is currently the only tool available. Again, what is needed is more money to develop appropriate data gathering tools. I know these models have been peer tested but in the article below, Menakhem Ben Yami states, "I think that another reason for having inadequate science in charge for so many years is that the "peer reviewing" of publications and scientific reports is being done by scientists, however independent, who come from the same discipline and the same, prevailing school of thought as the authors. Thus, assessments made on the basis of statistical models are reviewed by statistical modellers, who obviously believe in their basic methodology, but not by scientists who may think that the whole existing modeling methodology cannot produce reliable results." I have been saying the same thing for years.

I would like you to consider the following suggestions:

1. The Federal Government needs to appropriate real money to develop and implement a system that will give us the data we need.
2. The money should be allocated to the states to do the actual data gathering. The states have proven they can implement any data-gathering program more efficiently, accurately and cost effectively than government contractors.
3. A workshop should be designed to develop alternative management regimes for the recreational sector that are not based on either quota or total allowable catch. This would allow us to look at more cost effective possibilities.
4. A new stock assessment tool must be developed that responds to stocks that are rebuilding faster than the present information is suggesting. We need to rethink the entire way we do stock assessment.

In closing, in the last hundred years there have been amazing advances in science and technology. We can count the craters on the moon. We are able to use satellites to photograph a four foot area on earth from tens of thousands of miles away. We can actually land a vehicle on Mars to analyze the soil. These are things we couldn't even dream of 50 years ago. But when it comes to knowledge about what is happening in the ocean, we are still in the dark ages. The two recent Oceans Reports point this out dramatically. We're not even sure about the impact of human activity on the ocean. It is my hope that Congress and the President will see the ocean as a priority. In my estimation, we need to focus less on outer space and more on our own planet. That will have the most dramatic effect on all of our lives.

Summer Flounder

At the ASMFC meeting there was a lengthy discussion about New York's summer flounder overages and the necessary reduction. I fought hard for a motion that would give New York some relief. Some people asked me why I fought so hard to reach a solution that was not allowed for in the plan. The implication was that I had not fought as hard when other states faced reductions due to overages. My reply is that times are different and the situation is different. My responsibility as commissioner is to look at each issue individually and consider the current situation. Circumstances change and in this case there were some outstanding reasons why I changed my mind. In 2002, because of the issue of paybacks, states were being very conservative on the implementation of changes in their fluke regulations for 2003. Most states made a good faith effort to develop regulations that would keep them in compliance with their targets. They used the available data conservatively in developing their regulations. None of us were told there was a problem with the 2002 Marine Recreational Statistical Survey. New York, New Jersey and other states used those figures as though they were calculated in the same way as the figures from 2000 and 2001. Even though we know none of these figures are accurate we expected some consistency from year to year. The National Marine Fisheries Service should have told us about the problem with the data for 2002. It is irresponsible to punish a state for developing regulations when they were given inconsistent data. Right now, New York is required to take a 48% reduction in the summer flounder fishery. This will have a devastating economic effect on the marine recreational fishing industry in New York and impact on the quality of life for recreational anglers. If this happened in New Jersey the impact would be even more devastating and I am not sure what actions we would need to take. We just can't use the Marine Recreational Statistical Survey to do quota management. It was not designed for this task and continues to create problems throughout the system. We are encountering the same problems in scup, sea bass, tautog and any other species that uses this data.

SOME MORE COMMENT ABOUT FISHERIES SCIENCE

Menakhem Ben-Yami is a fisheries Management and Development Advisor from Israel. I communicate with him through a message board that includes people from around the world. He sent me this email and I wanted to share it with you. Pay particular attention to #5 where he discusses the peer review process. I have been saying the same thing for years. I mentioned to Menakhem that he did not include recreational fishing in his definitions. He replied that most of the countries he deals with pay little attention to recreational fishing.

Article from Menakhem Ben-Yami

Appeared on Fishfolk

I think that it might be useful to recall some definitions that we discussed here several years ago:

1. Fishery management is about maintaining the production of fish and the well-being of fish producers at sustainable levels.
2. Good assessment of the desired level of production (expressed either in the terms of input or output, or a combination of both), and of the production sector are necessary for successful management. The fishery science, as practiced today, may not be able in many cases to produce such assessment. It may be "the best available" but not necessarily adequate science.
3. Fisheries management is all about people. People are all it can manage, and people are those who either enjoy or suffer from its consequences, including depletion of fish stocks. Therefore, it cannot be feasible if it is perceived by fishing people as erroneous, wrong, unjust, etc. This is one more reason for fisheries managements' not working.
4. Choice of management strategy (by the authorities in charge) is in most cases political and economic. The two basic strategies are (1) favoring the existing fishing people and their communities, and (2) favoring larger and financially more efficient owners, which as a rule includes large corporations. Both strategies may eventually achieve similar fish yields, but each at different social and economic costs.
5. Within each strategy various technical/technological means can be adapted. Some of those are today criticized as based on inadequate, or just wrong science and assumptions. An example: selective fishing for only larger individuals in groundfish fisheries that, according to some scientists, leads to creation of stunted, starving populations of undersized, early and weak spawners, and, perhaps, genetic changes in those fish populations where genetically slower growers enjoy the selective fishing and bequeath this trait over an increasing share of the stock.

I think that another reason for having inadequate science in charge for so many years is that the "peer reviewing" of publications and scientific reports is being done by scientists, however independent, who come from the same discipline and the same, prevailing school of thought as the authors. Thus, assessments made on the basis of statistical models are reviewed by statistical modellers, who obviously believe in their basic methodology, but not by scientists who may think that the whole existing modeling methodology cannot produce reliable results.